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Defendant Michael Vertkin, *Pro se*

United States District Court
Northern District of California

Dr. Anna Vertkin,)	Case No.: C 07 4471 SC
)	
Plaintiff, Counter-Defendant)	DEFENDANT'S/COUNTER-CLAIMANT'S
)	MICHAEL VERTKIN REPLY TO PLAINTIFF'S
vs.)	DR. VERTKIN OPPOSITION TO REQUEST FOR
)	ENTRY OF DEFAULT FOR FAILURE TO
Michael Vertkin, and Does 1-20.)	ANSWER COUNTER- CLAIM AND AFFIRMATIVE
)	DEFENSES. FRCiv.P. 55(A)
Defendants, Counter-Claimant)	

REPLY TO OPPOSITION TO ENTRY OF DEFAULT

COME NOW the Defendant/Counter Claimant, Michael Vertkin, *Pro Se* and replies to Plaintiff's/ Counter Defendant's, Dr. Anna Vertkin opposition to default entry request.

First, answer to the counter claim was due on February 27, 2008.

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk **must** enter the party's default. FRCiv.P.55 (a) (emphasis added)

Second, Hon. Judge Conti postponed Case Management Conference until April 25, 2008, not responsive pleadings. In fact, on February 6, 2008 Plaintiff demanded in an e-mail, that

1 Defendant file an answer to the complaint, three days before it was due and threatened that the
2 default request will be filed against Defendant if answer is not filed next day (**Exhibit A**)

3 Third, Defendant did extend professional courtesy to the Plaintiff and send letter on
4 March 5, 2008 (that's a week after responsive pleading was due), with the request file an answer
5 (**Exhibit B**). Nether plaintiff or her counsel called back, e-mailed, wrote or otherwise responded
6 to the request, it was simply ignored.

7 Fourth, Defendant find Plaintiff's claim that she was unaware of the Counter Claim not
8 credible. Heading of the responsive pleading clearly designated it as Answer, Affirmative
9 Defenses and **COUNTER CLAIM**. Defendant confirmed at ECF site that he was filing Counter
10 Claim with the answer to the complaint. ECF clearly designated it as Counter Claim. New titles
11 were assigned by ECF to Dr. Vertkin –counter defendant and Michael Vertkin-counter claimant
12 (**Exhibit C**). It would be impossible to miss the fact that counter claim was filed. As for
13 Plaintiff's allegation that counter claim being “buried” behind the answer and affirmative
14 defenses, that is natural and usual order of the pleadings. I hope Plaintiff does not suggest that
15 she reads only first few pages of the pleadings. Specially, pleadings she demanded to enter
16 before they were due.

17 Fifth, as early as October of 2007, in a letter to plaintiff counsel, Defendant altered him
18 that affirmative defenses and counter claim will be filed with the answer to the complaint.
19 Plaintiff can not claim that she was “ambushed” with affirmative defenses and counter claim.
20 The letter is somewhat of the personal nature and Defendant hesitant to exhibit it without
21 opposing counsel consent, but he will if Plaintiff insists or upon the Court's request.

22 And lastly, Defendant find highly offensive Plaintiff's statement that Defendant's being
23 litigant *pro se* is an “advantage”. On the contrary, it is Plaintiff who knowing that the Defendant
24 is *pro se* litigant, has simply ignored her obligation to answer counter claim and affirmative
25 defenses. There is no advantage whatsoever for Defendant, a lay person, to have no alternative,

1 but to spend countless hours struggling through the Federal Code and spend nights with the
2 Local Rules. Meanwhile Plaintiff, having retained most of the community funds, uses hundreds
3 of thousands of dollars in her possession to prosecute him in three different Courts to gain an
4 advantage in the divorce proceedings, harass the Defendant and put him further in debt.

5 In summary, Plaintiff /Counter- Defendant knew that counter claim was filed, was alerted
6 that the answer to counter claim and affirmative defenses were overdue, but chose simply to
7 ignore Defendant's request, Federal Code and Court Rules. Plaintiff showed no good cause in the
8 opposition to entry of the default. Therefore, Defendant respectfully requests an entry of the
9 default against Plaintiff / Counter – Defendant, Dr. Anna Vertkin.

10
11 Respectfully submitted

/s/ Michael Vertkin

12 _____
13 Michael Vertkin, defendant/counter-
14 claimant, *pro se*
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Vertkin v. Vertkin

From: Robert Shepard [sheplaw@yahoo.com]
Sent: Wednesday, February 06, 2008 3:35 PM
To: Michael Vertkin
Subject: Vertkin v. Vertkin

Mr. Vertkin, your answer to the complaint filed was due yesterday, 5/5/2008. Please file your answer by tomorrow, 5/7/2008, or on Friday, 5/8/2008, I will request that the court enter a default against you. Robert Shepard

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MICHAEL VERTKIN

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March 3, 2008

Robert L. Shepard
The Law Office of Robert L. Shepard
760 Market Street, Suite #706
San Francisco, California 94102-2307

Re: Case No.: C 07 4471 SC
Answer to counter claim

Dear Sir,

Your answer to counter claim and reply to affirmative defenses was due on February 27, 2008. To date none was filed. I will ask court to enter default against your client if answer not filed by March 9, 2008.

Sincerely

A handwritten signature in blue ink, appearing to be 'MV' or 'M. Vertkin', with a stylized flourish extending to the right.

Michael Vertkin

Exhibit C**Motions**

3:07-cv-04471-SC Vertkin v. Vertkin

ADRMOP, E-Filing, ENE, ProSe

Select the filer.**Select the Party:**

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Vertkin, Anna [Counter-defendant]
Vertkin, Michael [Defendant]
Vertkin, Michael [Counter-claimant]

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